

# **EXHIBIT 5**

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF ILLINOIS EASTERN DIVISION

JASON JANKUSKI, BROOKE )  
McKINNEY and ALTON MORRIS, )  
Individually, and on Behalf of All Others )  
Similarly Situated, )

Plaintiffs, )

v. )

Case No. 1:12-cv-4549  
(JURY TRIAL DEMANDED)

HEATH CONSULTANTS, INC., )  
GRAHAM MIDGLEY and GARY LAPE )

Defendants. )

**DECLARATION OF JAMES MERRIWEATHER**

THE STATE OF ILLINOIS §  
§  
COUNTY OF COOK §


Pursuant to 28 U.S.C. § 1746, I, James Merriweather, make the following declarations  
under the penalty of perjury:

1. "My name is James Merriweather. I am over the age of eighteen (18) years and fully capable of making this declaration.
2. The facts stated in this declaration are within my personal knowledge and are true and correct.
3. I am currently employed by Heath Consultants ("Heath") as a Field Technician performing Shutoff work on the People's Gas project in Chicago, Illinois. I have been employed by Heath since March of 2012.
4. I have been instructed to record all of my work hours and to not perform any work at home off the clock.
5. As a Shutoff Technician, I typically know my first assignment in the morning because I am either told by my crew leader the day before or the information is available on my laptop computer before the end of the preceding workday.
6. On days that I do not know my first assignment prior to the start of the workday, I typically obtain this information from my laptop computer in the morning.

7. On days when I know the location of my first assignment before my commute, Company rules require that I start work at my first assignment at 6:00 a.m. On days when I do not know my first assignment before the workday, it is permissible for me to turn on the computer and drive to my first assignment on the clock, which means that I would not be physically present at my first assignment by 6:00 a.m.
8. I have been instructed by Heath to complete all paperwork during the workday while on the clock. I do not complete timesheets or any other documentation at home or outside work hours.
9. I am not required to do a formal vehicle inspection each morning on my company vehicle, other than a common sense safety inspection that I would perform on any vehicle before I drive it. (i.e. tires are not flat, etc.). Any such inspection would not take more than a few seconds.
10. The vast majority of equipment and tools that I use in performing my job may be left in the Company vehicle overnight and are not required to be brought into my home. The only exception would be the company issued laptop and valve shutoff keys, which, if stolen, could be used to turn on gas meters which have been shutoff. The keys can be stored in a pouch, box or bucket and can be easily brought into my home without any additional effort or an extra trip to the vehicle. Heath does not require that these items be brought into my home, but we have been told that we are responsible for safekeeping these items and to not leave them in our vehicle overnight if the vehicle is not in a secure location.
11. On Monday mornings, all technicians attend a safety meeting where we are allowed to stock up on supplies. During the workweek, if we need additional supplies, we can ask for a crew leader or supervisor to bring those supplies to us in the field. I have never checked my inventory off the clock and there would be no reason to do so.
12. At the end of the day, we typically call a supervisor to report our "numbers" for the day. This call is supposed to take place during work hours, before the end of the shift, and typically lasts less than one minute. If my supervisor does not answer, I can simply leave a voicemail with my numbers.
13. Further Declarant sayeth not.

I declare, under the penalty of perjury, that the foregoing Declaration is based on my personal knowledge and is true and correct to the best of my information and belief."

Executed this 13 day of September, 2012.

  
James Merriweather